

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID MCCAUSLAND, on behalf of
himself and all others similarly situated,

Plaintiff,

- against -

GRAY TELEVISION, INC.,

Defendant.

ORDER

22 Civ. 7539 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

Over the next forty-five days, the parties will conduct discovery regarding personal jurisdiction and venue. Discovery during this period will address the following subjects:

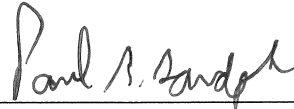
1. the dates and times on which Plaintiff alleges that he accessed a video or videos on a website controlled by Defendant, in connection with which Plaintiff's Facebook ID, the name of the video, and the URL of the website were transmitted to Facebook; and
2. with respect to each such incident,
 - a. the Terms of Use that were in effect at that time,
 - b. whether, and if so how, Plaintiff was put on notice of the Terms of Use in effect at the time that Plaintiff accessed a video, and
 - c. whether, and if so how, Plaintiff manifested consent to the Terms of Use in effect at the time that he accessed a video. See generally Meyer v. Uber Techs., Inc., 868 F.3d 66, 75-76 (2d Cir. 2017) (outlining notice and consent principles with respect to online "browserap" and "shrinkwrap" contracts).

By **March 23, 2023**, the parties will submit letters setting forth what their jurisdictional discovery has revealed. Discovery during the forty-five day period is limited to the

topics listed above.

Dated: New York, New York
January 30, 2023

SO ORDERED.

A handwritten signature in black ink, appearing to read "Paul G. Gardephe", written over a horizontal line.

Paul G. Gardephe
United States District Judge